

## Town of Lamoine

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**From:** Tony Benincasa <benincasa@bellsouth.net>  
**Sent:** Friday, October 24, 2014 12:30 PM  
**To:** town@lamoine-me.gov  
**Subject:** Fwd: Letter to Lamoine Board of Appeals

Sent from my iPhone

Begin forwarded message:

**From:** Kathleen curtis <[no-reply@evernote.com](mailto:no-reply@evernote.com)>  
**Date:** October 24, 2014, 12:27:55 PM EDT  
**To:** [benincasa@bellsouth.net](mailto:benincasa@bellsouth.net)  
**Subject:** Letter to Lamoine Board of Appeals  
**Reply-To:** Kathleen curtis <[kacurtis75@gmail.com](mailto:kacurtis75@gmail.com)>

Dear Board of Appeals,                      Re: Benincasa v. Code enforcement Officer & Planning Board

I'm writing as a resident of Lorimer Road to support the appeal of the CEO's misinterpretation of the 30 day limit on using an RV as a dwelling unit. My home is diagonally across from the Balach's property. I have lived in Maine my whole life and have never seen a neighbor with such disregard and disrespect for their fellow neighbors than this couple. They don't have an ounce of care that their antics of twisting the land use ordinances of Lamoine into allowing them to live in their huge motor coach on their newly constructed pad while they rent their home have lowered all their neighbors property values. Absurd antics they are indeed. Why would the town bother to have an ordinance of allowing an RV to be used for 30 days as a dwelling unit before it had to obtain a construction permit, if all they had to do is move it out for a bit, then move it back for another 30 days, over and over!? Why bother to make the ordinance if it serves no real purpose? I do not believe the founders of this ordinance had this in mind when it was devised. If these neighbors are allowed to live in their RV, for basically as long as they want ( as long as they move it out for a few minutes to re set the 30 day clock), then anyone on a less than one acre lot, anywhere in Lamoine could do the same thing. Before you know it this once beautiful small residential neighborhood will look like a KOA camp ground. The stress on this densely populated area will be taxed to the maximum. It will ruin the whole ambiance of this gorgeous seaside area of our town.

The safety issue is also something that should be considered. While the Balachs are backing their RV down the whole four tenths of a mile along Maxwell Avenue and Lorimer Road ( they back down because the road is too narrow for them to turn it around to get it into their newly constructed pad) it takes a good 20 minutes during which they take up the whole road so there is no room for any car to get by on either side. Imagine if an ambulance or other emergency vehicle had to get through for one of our many elderly residents? They couldn't until they waited while the Balachs either finished their back up maneuver or pulled the RV forward up to Marlboro Beach Road. The same safety issue would also hold true for a fire or law enforcement vehicle. The critical time wasted by this practice could cause a house to be burned flat or someone could even have died! Is that a law suit the town wants to tackle by encouraging an

owner of an oversized motor home to maneuver the unit off the property for a day and then back it down a long dead end road just to comply with a very creative interpretation of this ordinance by the Town's CEO...I certainly hope not!

After the complaints were filed by Anthony Benincasa , two different neighbors were told directly by Mr. Ballach that he "planned to retaliate against him". He also mentioned to another neighbor that he would "turn his home into a "half way"house " to get retaliation against us all. And also, that being a retired policeman from New York he commented " that most people were afraid of him". I have never in my life been afraid of a neighbor until this summer! It is not a nice way to live! This was a close knit, friendly, caring wonderful neighborhood until Barry and Paula moved in.

This is a limited residential shoreland zoned neighborhood. The pad that was built without a permit involved lots of earth moving, tree cutting, draining revisions, and septic connections. Most of this construction was done within the shoreland zone. How was this allowed without any permits? I would hope the board would require that this land be restored to its original condition!

In closing, the Balachs have pulled a fast one on the town by twisting the meaning of these land use ordinances to allow them to obtain their greedy objective of renting their home while living in their RV next door in their new driveway. With no regard for anyone but themselves. This situation has been facilitated by the CEO and his decision must be reversed!

Respectfully,

Kathleen Curtis

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To: The Lamoine Board of Appeals  
RE: Benecasa v. Lamoine Code Enforcement Officer

As an abutting property, I am writing to express my thoughts on the above-mentioned case. The first issue is the Code Enforcement Officer's interpretation of the 30-day provision of the Lamoine Building and Land Use Ordinance. And secondly, the second curb cut as defined by the same ordinance.

Presently on the adjacent property there is an accessory dwelling unit (motor home) parked. Also, on the same property is a single-family main building. The property where both dwellings (the main building and the RV) sit is less than one acre.

The Lamoine Building and Land Use Ordinance states conditions for the use of our properties in Lamoine. The intent of this ordinance is to limit the density of lots. This insures the rural character of the community is maintained. To this end, the community has passed ordinances to preserve the rural character of the town. The Building and Land Use Ordinance states how dwellings are permitted and not permitted. The Ordinance defines the density restrictions. The requirements of the accessory dwelling unit as stated in the Ordinance are: "a. A lot must have a minimum of 40,000 sq. ft. to be eligible for the addition of an accessory dwelling unit to an existing single-family home. The applicant shall have the burden to establish the lot area by a survey signed and sealed by a registered Maine surveyor....."

The adjacent lot does not meet the requirements, and there has been no survey presented to the town showing the minimum size requirement has been met.

The Building and Land Use Ordinance Part II Section 10 (B) States:

***"Recreational Vehicles Used As Dwelling Units***

*Recreational Vehicles used as dwelling units on a lot for more than 30-days must obtain a construction permit*

There has not been issued a construction permit due to the property it resides on does not meet the minimum requirements of 40,000 sq. ft. (Building and Land Use Ordinance, Part II Section 10, D,2,a "A lot must have a minimum of 40,000 sq. ft. to be eligible for the addition of an accessory dwelling unit to an existing single family home.")

The CEO of Lamoine has determined that the accessory dwelling (RV/motor home), if moved prior to 30 days, then there is no need need to apply for a construction permit and the 30-day provision of the ordinance does not apply. The RV has been moved off the property prior to 30 days and then returns the next day.

The ordinance does not say 30 consecutive days. It states **for more than 30 days**. It does not say after 30 **consecutive** days. The CEO determination is based on 30 consecutive days. The CEO is ruling that the owner may move the RV after 29 days and then return the next day to start another 30 consecutive day period. This is not what the ordinance states. Any and all days must be counted during any period within the 12-month annual cycle. (There could be 5 days in June, 20 in July and 5 in August. After the fifth day in August the unit would be required to leave the

property for the remainder of the year.) As it is now, the CEO interprets that the ordinance is 30 **consecutive** days. . The CEO is permitting the RV to leave the property before 30 days and it then returns to start another count of 30 days; month after month. It clearly does not state or imply consecutive days. It states more than 30 days. The effect of this ruling is a one-day a month ordinance-the day the unit is not on the property. The CEO has grossly misinterpreted the ordinance.

The fact that there is a thirty-day provision shows that the intent was to keep the density of the town and the properties therein residential in character. Having rented the main dwelling (up to 10 persons) for most of the summer, the owners moved into the accessory dwelling. Additionally, the property owners had another RV parked on the same property for a number of days this summer. One main dwelling unit with two accessory dwelling units on less than one acre of land is against the provisions of the ordinance. Imagine if there were multiple accessory dwellings on each non conforming parcel of land in Lamoine? If the CEO's interpretation were upheld, there would be no restrictions to having accessory dwellings on small lots. These units could stay all summer. All they would have to do is move them before 30 days expires according to the CEO. The effect of this ruling is that this residential district is being transformed into an RV park against the provisions of the town ordinance.

The owners had a new driveway and curb cut put in last fall and finished this spring. Included was the placement of a utilities area for power, sewer and water. The sewer system hook up was not permitted as the ordinance does not permit the accessory dwelling be connected to an existing system not designed for additional bedrooms. I believe that the sewer hook up is still available and it has not been removed from the septic system. It could then be used again at the owner's choice. This should not be allowed. It should be removed immediately.

The second curb cut provision does not have any criteria. (B & L Use Ordinance, Part I, Sec. 5, C.) Therefore, any person requesting a second curb cut will not have any problem acquiring the permit. I believe the Road Commissioner checks for sight clearance conditions. However, having no criteria is like having no ordinance at all.

The Board has the jurisdiction under the same ordinance, Part I, Section 8,B "...the Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly contrary to specific provisions of this ordinance. ..." The **30 consecutive** day ruling by the CEO is not what our ordinance states. We cannot have one public individual take actions that are against the will of the town. This transgression must be corrected. I strongly urge the Lamoine Board of Appeals to enforce the ordinance as it is written.

Sincerely,

Griff Fenton

My letter is in regard to the Benincasa v Lamoine Code Enforcement Officer & Planning Board  
on Wednesday, November 5, 2014

Early last spring our community heard that the Dargis property, on 7 Lorimer Road in Marlboro, had been sold and that there were two new people moving in. They were from New York City and Mr. Balach was a retired policeman. His wife, Paula McIntyre, was in the tourism business. My husband, Griff Fenton, on his daily walk with our dog, met Mr. Balach on the road and introduced himself. Mr. Balach mentioned that he and his wife were interested in purchasing boats to be moored in front of the properties. Griff, knowing about boats, offered to help him decide which boats might be suitable for this area. All the neighbors were happy to befriend these people. In fact, Balach and his wife were invited to a neighborhood party and introduced to everyone there. People seemed to like them and they were welcomed. I for one, was excited that they had constructed a large front deck on their house and put many flower boxes and new flower gardens in front of their house. The house had become very attractive and an asset to the neighborhood; we were happy to have these new people as neighbors.

However, not long after that, we were told that they owned a very large motor home and would be bringing it into the neighborhood on their one acre lot, several feet from their house. The motor home would be for them to live in while they rented their new home. Their house is large with 4-5 bedrooms. They advertised that they could sleep 10 people with multiple families. Soon there was heavy equipment bringing in loads and loads of dirt. They were digging trenches for the wetland that the motor home would be set on and cutting down many trees. We wondered why the land was suitable for development, if it had to be filled and drained with ditches.

Things were changing in the community and we realized that these people were not here to be good neighbors, they had bought the property to make money and their purpose was to live in their large motor coach. We were told that legally it could stay 30 days and then had to be removed for a short length of time and then it could return. It was driven away three different times. When the RV returned it was backed up the entire distance, from Marlboro Beach Road, down Maxwell Ave. and finally to the RV site on Lorimer Road, each time causing traffic backup and unsafe conditions.

The property was cleared of many trees, and all of a sudden, a large, white RV could be seen very clearly from our 25' boundary line. It was disappointing to know that motor homes could be placed in residential areas because it definitely affects the scenic and natural beauty of the area. This is when neighbors started asking about how Balach/McIntyre could have gotten the required permits or DID they get them. We heard that they did get the permit but only after the RV was already on site.

Opinions, in the neighborhood, quickly changed and we were feeling a lot different about Mr. Balach and his wife. Mr. Balach had started making threats and insinuations to people about how he would turn his house into a halfway house, telling a neighbor that it was the second time he could have run her over in his truck. He also made up a story about the blonde lady, Sandy, who lived on the adjacent property, who had driven by him screaming

and acting crazy. The Sandy he was referring to was ME and I did not drive by him acting crazy and I am not blonde!

As it turned out, after checking with the CEO, there had been violations. Mike Jordan had not been to the RV site to inspect the property before the RV was placed there but he had no jurisdiction over that, he said. He only had jurisdiction if the RV was parked there for over 30 days. He said that the owners were given wrong information about the hookup to the existing sewer system and that on 7/1/14 he went there to verify and tell them that they were hooked up improperly. That was only after a formal complaint had been filed with the town. Mr. Balach had hooked power, sewer and water up to his main house. However, the RV would require a waste water holding tank. You cannot have two dwellings on one acre of land and his septic disposal did not meet the lot size guidelines. He would have known this if he had gotten the required permit but that wasn't his plan.

Resentment built up quickly in the neighborhood because of the disregard for the ordinances. We know that permits should be in writing with a description of the proposed plan for such vehicles including the size, location, setbacks, and utilities associated with the structure. We know that the Planning Board will examine the application and either issue the permit or refuse it within 30 days. If it is in compliance of the ordinance, it will pass and if not, it will be denied. We know that they oversee responsibility for the proposal during and after completion. We know that the Code Enforcement Officer reviews the applications for permits and makes recommendations to the planning board. He conducts inspection to see if the placement of structures comply with the ordinance and is consistent with the plans that were submitted by the applicant, for the permit.

We also know that the Board of Selectmen, the Planning Board and the Code Enforcement Officer work as volunteers for the town of Lamoine. We appreciate their service and know that they deal with many issues that are time consuming. What we ask is that the ordinances dealing with RVs, do comply. We feel, as taxpayers, when our property is being adversely affected, that measures should be taken.

We are anxious to hear the interpretation of this ordinance, if there were errors made, if there was a failure to act accordingly in the procedure and what action will be taken in the future.

Respectfully submitted,

Sandra Fenton

21 Ash Lane  
Lamoine, Maine 04605  
October 21, 2014

**BY HAND**

Lamoine Board of Appeals

Re: Benincasa v. Code Enforcement Officer & Planning Board

We are residents of Lamoine -- living in close proximity to the homes along Lorimer Road -- and wish to express our view regarding the appropriate interpretation and enforcement of Part II, Section 10 (B) of the Lamoine Building and Land Use Code ("Ordinance"), which provides that "...Recreational Vehicles used as dwelling units on a lot for more than 30-days must obtain a construction permit."

The most reasonable and equitable interpretation and enforcement of the plain language of Section 10(B) is that a construction permit must be obtained if a recreational vehicle is being used as a dwelling unit on a lot for more than thirty (30) days **in the aggregate**, and that this regulation is **not confined** to a recreational vehicle that is being used as a dwelling on a lot for more than thirty (30) **consecutive days**.

The Ordinance provides that, in its interpretation and enforcement, "all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning." Ordinance, Part III, Section 17(A).

Section 10(B) refers to thirty (30) days, not thirty (30) consecutive days. Absent the word "consecutive," the "ordinarily accepted meaning" of the term "30-days" is just that: thirty (30) days. A recreational vehicle which is being used as a dwelling on a lot for several months is patently being used as a dwelling for more than thirty (30) days.

Moreover, the meaning of the term "30-days" is implied by its context in the Ordinance and, for this reason as well, calls for the same interpretation. A recreational vehicle which is being used as a dwelling for, let us say, an entire 31-day month in May, July or August (or for a consecutive 62-day period from July 1st-August 31st) is required to obtain a construction permit. Surely a second recreational vehicle which is being used as a dwelling for, let us say, a total of about 120 days from May 1<sup>st</sup>-August 31st -- irrespective of whether those 120 days include any 31-day consecutive period -- **is being used as a dwelling to a significantly greater degree than the 31-day or 62-day recreational vehicle.** How can it be that the Town would ever intend that a "31-day" or "62-day" recreational vehicle be required to obtain a construction permit yet exempt a "120-day" recreational vehicle from this requirement?

To allow a recreational vehicle -- which is being used as a dwelling for months on end -- to avoid obtaining a construction permit simply by "breaking up" its use as a dwelling into multiple periods of less than thirty-one (31) days nullifies the Town's ability to regulate a recreational vehicle that is being used as a dwelling for such an extended period of time. **ANOTHER PROVISION OF THE ORDINANCE THAT HAS AN IDENTICAL THIRTY (30)-DAY RULE VIVIDLY ILLUSTRATES THIS POINT.**

Part II, Section 16(C) (2) of the Ordinance [Operating Requirements For Automobile Graveyards And Junkyards] states as follows:

(2) No vehicles may remain intact in the yard for more than thirty (30) days and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.

Could or should the purpose of this ordinance be defeated merely by removing an intact vehicle from an automobile junkyard on the 29<sup>th</sup> or 30<sup>th</sup> day of a month and allowing it to return to the yard the next day -- remaining intact for successive and multiple 29 or 30-day periods -- without being subject to the Town's regulations regarding the timely disassembly of junk vehicles? We think not and trust that you concur.

We thank you for your service to the Town and for your consideration of our view.

  
Edward & Lillian Miller

Jim Crotteau, Vice Chair  
Lamoine Board of Appeals  
606 Douglas Highway  
Lamoine, Maine 04605

October 15, 2014

Submitted for the November 5, 2014 Benincasa vs the Code Enforcement Officer  
Public Hearing

Dear Jim and Committee Members,

I am concerned about the accuracy of the article on Page 3 of the LAMOINE  
QUARTERLY, July 2014: "Code Complaints Investigated"

"A complaint alleging a 2<sup>nd</sup> dwelling unit (a recreational vehicle) had been placed  
improperly on a Lorimer Road lot found that the RV was parked next to a home, but  
not attached to utilities."

Comments/Corrections:

Re: "the RV was parked next to a home"

The Ballach/MacIntyre RV (a motor coach) was not parked next to a home, it was/is  
parked on the prepared site that had been cleared of trees and connected to Lorimer  
Road by a "road opening". The cleared site is approximately 45 feet from the center  
line of the driveway of the existing home to the center line of the new "road  
opening". The site location is not next to the home as stated in the Lamoine  
Quarterly article; it is "nearby" as stated by the property owners in their vacation  
home rental ad on the web.

Re: "not attached to utilities"

Utility trenches for water and electricity from the existing home to the prepared site  
were dug and in place allowing water and electricity (ending at an above ground  
electric circuit board) to be connected to the motor coach. A trench from the  
cleared, prepared site to the existing septic system was also dug and in place for use  
by the motor coach. Site development (cutting trees, hauling in truck loads of fill,  
drainage ditching, culvert installation) was done by Jay Fowler (Jay acknowledged  
this at the last meeting of the Board of Appeals when he excused himself from the  
Board of Appeals future hearings on this case).

The Balach/MacIntyre motor coach is a temporary, mobile unit (as defined in The  
Town of Lamoine Building and Land Use Ordinance ), which can be connected and  
disconnected from utilities with ease and swiftness. That it was not attached to  
utilities on the day and at the time of the Code Enforcement Officer's pre-set  
appointment time with the owners is understandable.



The Town of Lamoine Building and Land Use Ordinance states:

1. A recreational vehicle may be used as a residence for 30 days (intention of the Ordinance, no more than 30 days, period.)

As the next door residents on the south of the Balach/MacIntyre property line, we easily noted the motor coach site preparation beginning in Fall 2013. The Balach/MacIntyre couple used their motor coach as their primary residence for at least 7 weeks (49 days) in July and August, 2014. They lived in the motor coach while they rented the existing house by the week. Information on rental history was available on line where they advertised the calendar of availability/booked dates and we were aware of renters next door.

2. The minimum lot size for a residence is 1 acre. (a second residence on a one acre lot is not allowed, period)

Concluding remarks:

The homes along the Dead End Road that extends from the intersection of Marlboro Beach Road and Maxwell Avenue, to the Dead Ends on Lorimer Road are permanent structures, diverse in style; all are neat, tended, and maintained.


Residents in our neighborhood are truly interesting, trusting, caring, public spirited volunteers in, and a credit to, the Town of Lamoine. This is a neighborhood in the true sense of the word.

It is very upsetting as a resident and taxpayer to have the Code Enforcement Officer for the Town of Lamoine ignore the intent of the Building and Land Use Ordinance, and moreover facilitate and allow the excessive and blatant exploitation of this neighborhood.

Obtaining a "road opening permit" with such speed and ease and "after the fact" is a second huge disappointment and very upsetting to me as a resident and taxpayer in the Town of Lamoine.

I urge the Appeals Board to correct the decisions made thus far and not allow Balach/MacIntyre arrangement to continue this year or in future years. They have already "cashed in" the one time 30-day use of their recreational vehicle as a residence.

Sincerely,

  
Phyllis A. Mobraaten  
11 Lorimer Road

Carolynne MacDonald  
6 Lorimer Rd.  
Lamoine, ME 04605

10-10-2014

Lamoine Board of Appeals  
606 Douglas Highway  
Lamoine, ME 04605

Dear Sir/Madame,

As a resident of 6 Lorimer Rd., I would like to weigh in on the case of Benincasa v. Lamoine Code Enforcement Officer & Planning Board. The Balach property in question is located directly across the street from my house where I have lived for the last 52 years. I've seen many changes in the neighborhood over these years, most of which have been positive additions to the neighborhood. The Balach property is being used in a way that is in direct conflict with the town's Land Use Ordinance, specifically section 10 which deals with Recreational Vehicles being used as a dwelling unit. The Balachs are most certainly using their RV as a dwelling unit, as they have lived in it the entire summer.

The conflict arises from the fact that the RV is being used for more than 30 days and, as I understand, the lot size does not meet the 40,000 square foot requirement for a second dwelling unit.

I feel strongly that there is no justification for this use and it should discontinue immediately, as it has a negative impact on the neighborhood as a whole and on my property value in particular, since my home has a bird's eye view of their RV while it's in place.

I am asking the town Board of Appeals to rule in favor of upholding the restrictions that are in place already in the Land Use Ordinance. It seems that the Balachs are being allowed to "play" the town's ordinance by simply moving their RV off the lot and then right back in place every 30 days. This is an obvious and deliberate maneuver and is an embarrassment to the town if they are knowingly allowing it.

I hope you will take the feelings of a long time town resident into account when making your decision. Thank you for your consideration.

Sincerely,

*Carolynne MacDonald*  
Carolynne MacDonald

To: Lamoine Board of Appeals

Date: Oct. 16, 2014

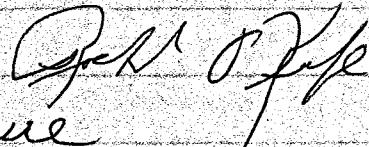
Re: Recreational Vehicle Ordinance

Complaint against Balach's

It is our viewpoint that the situation allowing property owners in residential areas to live in RVs impacts against the property values of our neighborhoods.

Therefore, please consider against allowing this practice to happen for future Lamoine residential neighborhoods and amend the existing RV Ordinance accordingly.

Sincerely,

Eugene J. O'Keefe   
14 Maxwell Avenue  
Lamoine, ME 04605

Town of Lamoine

Board of Appeals

17-Oct-2014

Dear Board of Appeals,

We are writing to provide comment on the appeal by Tony and Kathy Benincasa concerning the use of a recreational vehicle as a residence by Paula and Barry Balach. We own property abutting the Balach's.

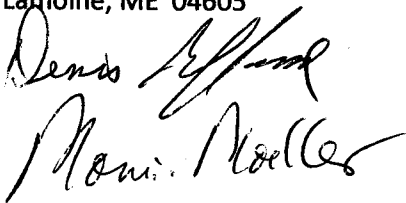
Denis met with Michael Jordan at the beginning of the summer concerning this matter to determine what was legal according to the Land Use Code. Denis was amazed that Michael's judgment was that the Balach's could live in their RV for 30 days, drive it off site for one day, and then go back to start another 30 day time period. This interpretation makes a mockery of the Land Use Code. There is no verbiage in the code that indicates that the time period must be contiguous.

The Land Use Code states in Section 1 that "The provisions of the code apply to... ..recreational vehicles, and/or manufactured homes when connected to any utility and/or used as a residence for a period of more than 30 days." The Balach's have lived in their RV all summer long far exceeding the 30 days limit. One of the main purposes of the land use ordinance is to limit the density of dwelling units in the residential zone. It does this by requiring 40,000 square feet per dwelling unit. The Balach's effectively have had two dwelling units in occupation all summer with less than 40,000 feet of land. What would our neighborhood be like if everyone decided to park several RV's on their land and rent them out with the only stipulation that they be moved off and back on the property every 30 days?

We feel the decision by Michael Jordan to allow the Balach's to cycle their RV every 30 days is in error and must be reversed.

Regards,

Denis Bouffard and Monica Moeller  
34 Maxwell Ave  
Lamoine, ME 04605

The block contains two handwritten signatures in black ink. The first signature, "Denis Bouffard", is written in a cursive style. The second signature, "Monica Moeller", is also in cursive and is positioned directly below the first signature.

17 October, 2014

Jim Crotteau, Vice-Chairman  
Lamoine Board of Appeals  
Town of Lamoine  
606 Douglas Highway  
Lamoine, ME 04605

I am writing this in support of the appeal submitted by Anthony Benincasa.

My wife and I own and are year-round residents of 11 Lorimer Road, next door to the Balach/MacIntyre property on Lorimer Road. While we are not technically abutters because a 33-foot right-of-way belonging to Denis Bouffard and Monica Moeller separates our two properties, our house is physically closer to the Balach/MacIntyre house than any other in the neighborhood. This being said, Lorimer Road is a Dead End road; every house along the Maxwell Avenue/Lorimer Road/Ash Lane is in a small neighborhood with modest homes and kept up properties.

The neighborhood is roughly laid out according to a 1910 development plan in which a number of approximately half-acre lots with various right-of-ways were eventually sold and developed. Several half-acre properties with houses still currently exist along Lorimer Road; many of the structures on these non-conforming half-acre lots have been allowably upgraded due to grandfathered previous use. Because of the number of these half-acre lots, density becomes an issue for existence of wells and septic systems; this being one of the rationales for specifying minimum lot sizes in Zoning Ordinances. This neighborhood is a pleasant place to live and I am concerned that the recent interpretation of one section of the Building and Land Use Ordinance for the Town of Lamoine, allowing two dwellings on a property less than the required lot size, exacerbates density and will be detrimental to the neighborhood.

I thus disagree with the interpretation of Part II Section 10B by the current Code Enforcement Officer allowing two dwelling units used as residences on the Balach/MacIntyre property (one the existing permanent structure; the other the recreational vehicle/motor home, which the owners have been using as a dwelling much in excess of 30 days). Allowing two dwelling units on a less than 40,000 square foot property is counter to the Land Use Ordinance, which allows only one dwelling unit per 40,000 square feet (Part I, Section 4-I, page 11).

The language of Part II, Section 10 concerns the establishment and use of dwellings, and Section 10-B (page 20) states "Recreational Vehicles used as dwelling units on a lot for more than 30-days must obtain a **building construction** permit." There is no mention of repeated 30-day periods. Allowing repeated 30-day habitations indefinitely makes no sense; why bother to specify any time period at all if that is the intention? What is gained by requiring a one-day interruption, which is the current Code Enforcement Officer's interpretation, every 30 days if the intention is to allow a recreational vehicle to be used as a dwelling unit indefinitely?

If the Town of Lamoine allows recreational vehicles to be used as permanent dwellings/seasonal residences on which no Lamoine property tax is collected, it is not fair to those of us who pay our property taxes on dwellings as well as land. Furthermore, if the Town of Lamoine allows recreational vehicles to be used as permanent dwellings in this neighborhood it would adversely change the character of the neighborhood, undoubtedly reducing property values of existing properties

Respectfully,

A handwritten signature in black ink, reading "Larry Mobraaten". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Larry Mobraaten

Lamoine Board of Appeals

October 18, 2014

Town of Lamoine

I am writing in support of the Benincasa versus Lamoine Code Enforcement Officer & Planning Board case before your Board of Appeals.

My husband Ken and I live directly across the street from the Balach recreational vehicle site. Lorimer Road/Maxwell Avenue is a quite friendly neighborhood in the Town's Limited Residential Zone. This permanent RV installation has forever changed our neighborhood, and not for the better.

As stated in the Town's building code RV's cannot be used as dwelling units for more than 30 days without obtaining a construction permit as the vehicle becomes an additional dwelling unit on a single lot. Paula MacIntyre and Barry Balach have lived in their RV most of the summer while they rented their 4 bedroom house to weekly renters (10 people at a time). Their lot is very small for this density as it is less than an acre. There was even a time when there were two recreational vehicles on the property the week of Labor Day. It does not seem to be in the letter or spirit of the code to allow this activity without acknowledging that it has truly become two residences on one small lot. To allow the Balach's to simply move their RV off the newly built second driveway and then just back it in again to live in it for another 30 days makes the Town's ordinance limiting RV's from being used as dwellings meaningless. Why would the Town take the time and effort to enact a code if it had no purpose? What if all of us on Lorimer Road did exactly what the Balach's have done? How would that look?

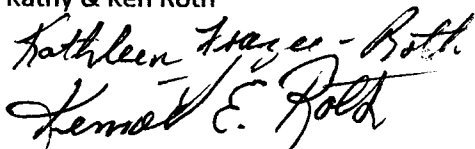
As for the newly constructed driveway (RV pad), It appears that a lot of earth was moved (way in excess of the 10 cubic yards requiring the Code Enforcement Officer's permit). After all, a significant portion of their lot is in the Shoreland Zone. To my knowledge all other residences on Lorimer Road a permit has been required to move large quantities of earth, alter drainage patterns, and cut down trees in the Shoreland Zone. Why have they been allowed to do as they please without regard to getting the required permits or if so, getting them after the fact? We feel they should be made to restore the portion of the site that is in the Shoreland Zone to its original condition.

This situation of allowing these code violations to continue will unnecessarily increase the density of an already crowded neighborhood, and also lower the property values of property owners like ourselves. Who would want to buy a house with a permanent RV installation across the street with a separate driveway with underground utilities including an unpermitted septic hook up?

Thank you for allowing me the chance to respond the Board of Appeals on these issues and we hope you will rule in a positive way for the future of our neighborhood as well as the Town.

Respectfully,

Kathy & Ken Roth

Handwritten signatures of Kathleen Frazer-Roth and Kenneth E. Roth. The signatures are in black ink and are written in a cursive style. Kathleen's signature is on top and Kenneth's is below it.

20 October, 2014

To: Lamoine Board of Appeals

From: Willem Brutsaert

RE: RV parked on Balach property, Lorimer Road, Lamoine, Maine

I am a resident of the Marlboro neighborhood of the Town of Lamoine, living at 10 Ash Lane, a few houses away from the Balach property.

It is my understanding that the RV parked on the Balach property is hooked up to the septic tank/leach field sewer disposal system of the house on the property.

The facts are that this property consists of a 0.8 acre lot (already a variance of the required one acre lot size), and that the Building and Land Use Ordinance allows only one septic tank/leach field per acre lot for good reason. It is my professional opinion, being a retired environmental engineer, that this hookup is in violation of the Ordinance because the only existing septic tank/leach field *de facto* serves two occupied homes (dwellings) for which it was not originally designed, and is now effectively under-designed. Therefore, there is an increased risk for potential pollution of the wells of the abutting properties in this already crowded neighborhood.

Because of shallow bedrock in this whole area, the overlying thin rocky soils are by definition marginal and not well suited for septic tank development. Special leach field designs are required. Housing density becomes a critical issue.

In closing, I would like to point out the absurdity of the interpretation, in the letter and not in the spirit of the law, of the Building and Land Use Ordinance with regard to the one month RV parking limit which is allowed to be repeated indefinitely with a clever trick.

A handwritten signature in black ink, appearing to read 'W. Brutsaert', with a long horizontal flourish extending to the right.

Willem Brutsaert  
10 Ash Lane, Lamoine



October 21, 2014

In reference to the hearing on the Benincasa vs. Balach dispute

This letter is to encourage our Town of Lamoine Board of Appeals to enforce the intent of our Town Ordinance limiting "Recreational vehicles used as dwelling units."

My husband and I bought our property at 44 Lorimer Road in 1972. At that time, the property included a small summer cottage. Most of the other properties on this street were also seasonal homes. When this area was first developed in the early 1900's, the plan was for individual cottages to enjoy the magnificent view and yet keep a small neighborhood feeling. Over the years, most of the homes have been rebuilt for year round living, but we have still been able to maintain a close and appealing neighborhood.

The arrival of a HUGE motor home has caused a great deal of unpleasant tension in the neighborhood. The town ordinance is there to limit this situation from being a problem, IF the intent of the ordinance is applied.

Our concern is that other neighbors in the future could decide to park RVs and trailers on their properties and the whole neighborhood could be negatively affected.

Another concern is for safety while this HUGE motor home is being moved. The road is too narrow for anyone to get past. If we had an emergency and needed to get an ambulance or a firetruck here to rescue someone, it would be very difficult.

The existing ordinance requires that an RV or any similar type of housing unit to be removed from a lot of less than one acre, that already has an existing structure, every thirty days for at least one day. This zoning ordinance, as it is currently interpreted, seems to violate the very intent and spirit of what it is trying to accomplish.

We encourage you to visit our neighborhood and see for yourselves what we are concerned about.

Sincerely,

Robert and Geraldine Williams

*Robert G. Williams*  
*Geraldine W. Williams*